Extra copy for JL. Suit looks inevitable now; will make administrative appeal today. Re yours & JL's suggestion that I hire counsel, my friends here think I'd be better off going pro se. I'd have more control, especially on time factor. Also, even though I could get atty fees under the act, it is not mandatory, so there is that degree of risk. Even if I eventually got atty fees, I'd probably have to pay them myself in the meantime--and from what? The amount of work involved for me will depend, I think, on the type of claim DJ makes. If they say backlog, need time, then probably less work for me, especially with record I am building (like Crim. Div waiting 3 months to answer). If they say they don't have the records, then more problems. Thoughts? HR 12/20/76

Dear Howard, your DJ FOI Cr.1626 1/3/77

I have no clear recollection of my earlier recommendation. I think it should have been that you have co-counsel, like a faculty member. I should not have indicated that you not be pro se, not I with my dedicatoon to fact. There is no member of the bar who has your factual knowledge essential to that request and probably none with your knowledge of the Act within your jurisdiction.

I also have faith in the building of a record. This you are doing. You ask about the claim to not having records. With Criminal you know of some they have so they can't pull thid. Or, let them and then clobber them in Court.

With each one of these untis I think you should ask for the sequential number and the claimed backlog. The date of receipt as Jim calculates it is the date of mailing + 2. Thus you will notice that whereas this is 9/7/76 +2 or 9/9, on 12/14 Buckley makes no reference to the date of official receipt. However, I also believe that you should make all reasonable efforts to avoid unnecessary litigation. You are within the law in filing once your appeal is not acted upon but I believe rushing in would be unwise and would deter the building of a record that can mean something in terms of preserving the Act as well as obtaining the information you want.

You refer to divisions, an ambiguity with DJ. They may well attempt to use this as a means of limiting the routing of your request. Thus Civil, which you do not mention and which should have records, is a division in the sense of Division and the so-called Office of Professional Responsibility is not. It is part of another Office, that of the DAG.

If you were dealing with honest people or even with dishonest people of honest intent this would be irrelevant. It is not irrelevant. Not only because they shift records around endlessly, as we have established, am thus an any time any component of unit (which I prefer to division) or any part can claim not to possess. Not that not having physical possession meets the requirement of the Act. Even th with the FBI, closely as it holds its own records. it also sheds them to be able to lie and regards compliance from whatever it means as the index of the FBI HQ files as compliance for the entire FBI. Jim and I have wrecked this as a matter of court record if you ever need it, in 1996.

You are dealing with dishonest people. Buckley is one who is dishonest, even within the norms of lawyerly dishonesty that is explained away as adversary diligence. You are also dealing with those who are responsible to what they regard as a higher authority than mere enacted law. These are authoritarians so they regard it as right andproper to violate a law their superior intellects and understandings tell them is not in the so-called nationalinterest. To beillegal thus becames patriptic if not legal to them. Perjury is no problem to them because they know it is not for them. I do mean the lawyers and the FOIA/PA lawyers and I have long relevant drafts if you ever want them. I prepared them while Jim was in the Sinagpore hospital and we never have qa chance to use them.

Back to the backlog: I suggest that with each part you ask your relative position on the list and an estimated time not of searching, which can be irrelevant, but of compliance, full compliance. If it strikes you as reasonable having appealed you can go to court at any time so tell them if they comply in full by the date they have set you will not sue, if they have not you will, and that you give them the choice between needless litigation and forcing it.

No matter how phoney and fabricated the reasons the fqct is they have contrived a backlog for the FBI only. Thus they tend to shunt all there. You have a case that is not there, hence no real backlog.

I'd ask Buckley to explain their numbering system, when does the 123 begin, for example. You will find that a 9/9 equest can't be too far from its time as he avoids telling you. So ask and perfect the record. Now the obligation of proper internal routing is not yours, but I'd seek other identifications, like Civil, wh ich at least through suits has to have relevant files. You have to watch these types of the dedicated wrong. Buckley misleads you on your rights under the law but can say one accepted meaning of exigent does not. Unique circumstances and 20¢ would get you the smallest bag of potato chips but no more. The language of the Act is simpler not not good for him so he uses other language. I think it is exceptional circumstances. If you were the only one who made the request that would be unique. It you were about to take a vacation of a year that would be exigent. Neither

would seem to have meaning, especially not under part of Opern America. There is another part that is your way.And as doctrine don t forget the language about the nation's interest in appea;s decision 5 75-2021. And speed

Initially I'd have suggested mf referring to the House but not now.

I take it that the Todd 12/22 is what I would call a Brown out. Goof.

On the committee we are really travelling a road we have gone down separately at the same time. The important thing is that ypu preserve your personal integrity.

Now I disagree with "For now, I think the proper thing is to offer." Wroug when now is the day they made their earlier press management official and when it was more than clear in the Anderson column of 12/24. Of all the actualities in the King case the one they fabricate on an assumption of Ray's guilt as the assassin is their claim to continuance and funding on it. On JFK the unhidden disinformation operation of the CIA/WxPost is? And with it the presumption of guilt, if you have heard that expression?

Whether or not this committee is continued and if it is whether or not the same staff and members are on it, from their record to date there is no honoarble means of helping them that does not become part of their disinformation. Yes. there might be some conditions under which I would testify but none that did not permit my castigation of all it has done to date. Without getting that into the record at the outset and in full detail there is no testinony I would give and I believe they are without the right or power to compel the testimony of a writer.Moreover, they have yet to establish a clear legislative purpose wihtout which they have no authority. I do not believe there is any chance they's force such an issue. They'd rather steal and claim other work as their own. I'm telling you how I feel about them, from personal experience, from watching and from the most dependable sources of what they are telling the press.

You cannot give them any vestige of credibility and not have regrets later.

LBJ Library: I'm sure writing it at Austin would reach it and I would recommend that rather than going through Rhoads, as you can. It is under him. On waiver ask first and argue only if refused. But I have the belief that American Mail is important here. On waiver.

Do you have a new typewriter? Best, and have a good year.

12/30/76--Dear Harold--As usual, haven't had time to write, but I have been reading all you send as it arrives. I understand your concerns re House Comm. and agree. My offer to help them of course does not mean I will sell out to them. You know my minimal conditions--public testimony. For now, I think the proper thing is to offer (no further word yet from Brooten). If they accept the offer, then I procede with caution, and to protect my own integrity. On FOIA, I caught the misrepresentation in Turner's letter, but didn't think to write--I will now that you suggest. As you can see from enclosures, I have appealed. I will also soon write a lengthy request covering similar ground to SS; it may yield nothing but it could help with suit agst Justice. Your suggesting re writing LBJ Library for documents referred to in my letter to Levi is good; do you have the address easily at hand? I'll want to do some research re whether giving these documents to Congress and the subsequent publication of excerpts in the Senate Report is a waiver. I'd think it should be, but there is an arguably relevant proviso in the FOIA and a fairly strong public policy argument to be made, although not persuasive on facts of this case. My best to you and Lil.

Harold